
APPENDIX I

Issues Regarding Notice and Service

1.0 Implementation of FRBP 9006(f) - 3 Additional Days to Act or Proceed

1.1 FRBP 9006(f). Pursuant to FRBP 9006(f) as amended effective December 1, 2009, when an item that contains a deadline to act or proceed is served by mail, electronically, or pursuant to F.R. Civ. P. 5(b)(2)(D), (E), or (F), and the deadline proscribed for acting or proceeding is a specific number of days after the date the item is served, three days are added to the deadline to act or proceed.

1.2 3 Additional Days to Act or Proceed. 3 additional days are added to a deadline when the deadline proscribed is determined by **counting forward** a specified number of days after the date indicated on the proof of service.

a. Applicable Situations Include Service of a/an:

1. Summons and notice of status conference in an involuntary petition;
2. Summons and notice of hearing on petition pursuant to 11 U.S.C. Chapter 15;
3. Notice of intent;
4. Notice to cure default (*example*: relief from stay adequate protection agreement);
5. Order to comply (when compliance deadline is determined by counting forward a specific number of days after service of the order);
6. Discovery request;
7. Demand;
8. Answer to a crossclaim;
9. Reply to a counterclaim; and
10. Motion or application made pursuant to LBR 9013-1(o) or pursuant to other LBR with a similar notice and opportunity to file a response and request a hearing

b. Applicable LBR forms Effective October 24, 2010: Please see Public Notice 10-021 for a list of LBR forms relating to 3 additional days to act or proceed.

c. Language of Notice: Appropriate language to include when providing notice of a deadline to act or proceed, when not using a court approved form, is:

The deadline for (*fill in the required action or proceeding*) is (*fill in number of days*) days after the date of service of this (fill in item being served), plus an additional 3 days if you were served by mail, electronically or pursuant to F.R. Civ. P.

5(b)(2)(D),(E) or (F). If you fail to comply with this deadline, the court may treat such failure as a waiver of your right to (*fill in the required action or proceeding*).

- 1.1 No Additional Days to Act or Proceed.** Additional days are not added to the deadline if: (1) the deadline proscribed is determined by **counting backward** a specific number of days prior to a scheduled event; or (2) an exact deadline is set without reference to the date on the proof of service.

a. Examples of Notices re Scheduled Events:

1. hearing date
2. status conference
3. pre-trial conference
4. trial
5. mediation
6. settlement conference

b. Example of Notice with Exact Deadline:

1. Summons and notice of status conference re adversary proceeding complaint.